

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

DEC 18 2000

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ANDREW J. WHITMORE,

Defendant-Appellant.

No. 00-5121
(N. District of Oklahoma)
(D.C. No. 91-CR-9-E)

ORDER AND JUDGMENT*

Before **BRORBY**, **KELLY**, and **MURPHY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Andrew J. Whitmore, a federal prisoner proceeding *pro se*, appeals the district court's dismissal of his "Motion for Return of U.S. Currency and

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Jewelry.” The district court dismissed Whitmore’s claims as to one sum of currency on the ground that the action was barred by the applicable six-year statute of limitations. *See* 28 U.S.C. § 2401(a). The district court dismissed Whitmore’s claims as to a second sum of currency and a parcel of jewelry on the ground that it lacked subject matter jurisdiction, *see* Fed. R. Civ. P. 41(e), noting that Whitmore appeared to have conceded the lack of jurisdiction in his filings before the court.

This court has conducted a *de novo* review of the district court’s order of dismissal, the parties’ briefs and contentions, and the entire record on appeal. That *de novo* review reveals no hint of reversible error. Accordingly, this court **AFFIRMS** for substantially those reasons set forth in the district court’s order of dismissal filed April 20, 2000.

ENTERED FOR THE COURT:

Michael R. Murphy
Circuit Judge